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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,457	12/11/2003	Byoung Whi Kim	2013P137	2061

8791 7590 10/03/2006

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EXAMINER

CURS, NATHAN M

ART UNIT PAPER NUMBER

2613

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/735,457

Applicant(s)

KIM ET AL.

Examiner

Nathan Curs

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: page 2, line 5, describes "Fig. 1", but the drawings contain either "Fig. 1a" or "Fig. 1b".

On page 4, line 14, "sever" should be "server".

Appropriate correction is required.

Claim Objections

2. Claims 1 and 3 are objected to because of the following informalities: in line 2, "a wavelength division multiplexing" should be simply "wavelength division multiplexing".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the optical multicast module". There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

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5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Ge et al. ("Ge") (US Patent Application Publication No. 2002/0057861).

Regarding claims 1 and 3, Ge discloses a method for optically copying a packet, in which a packet in a subscriber access network based on a wavelength division multiplexing is broadcasted/multicast using an optical broadcast/multicast module disposed independently of an optical label exchange switch, the method comprising: (a) dividing the packet, which is received from an optical group exchange controlled by the optical label exchange switch, into a header and a payload (fig. 1 and paragraph 0031); (b) applying the payload to an i-th port of the optical label exchange switch (paragraphs 0044 and 0045); (c) leading the payload to the optical broadcast/multicast module by controlling the optical label exchange switch so that when the header represents a label for broadcasting/multicasting, a corresponding broadcasting/multicasting port of the optical label exchange switch is set as an output port of the optical label exchange switch (paragraphs 0037, 0038, 0057, 0058, 0064 and 0065); and (d) reframing the header and the payload and transmitting the reframed header and the payload to a backbone network using the optical broadcast/multicast module (paragraph 0043).

Regarding claim 2, Ge discloses the method of claim 1, wherein step (d) comprises: (d1) storing the payload in a buffer (paragraphs 0039, 0048 and 0049); (d2) outputting the payload and the header from the buffer according to transmission priority and generating a reframing packet (paragraphs 0043 and 0048-0056); (d3) changing the reframing packet into optical signals having various wavelengths (paragraphs 0044 and 0045); (d4) demultiplexing the optical

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signals having various wavelengths so as to select only the optical signals having admitted wavelengths (fig. 1 and paragraph 0057); (d5) filtering the demultiplexed optical signals so as to adjust the spectral width of the optical signals to ensure a sufficient transmission distance (paragraphs 0070 and 0071); and (d6) multiplexing and amplifying the filtered optical signals so as to transmit the signals to the backbone network (fig. 1 and paragraphs 0060 and 0072).

Regarding claim 4. The method of claim 3, wherein step (d) comprises: (d1) storing the payload in a buffer (paragraphs 0039, 0048 and 0049); (d2) outputting the payload and the header from the buffer according to transmission priority and generating a reframing packet (paragraphs 0043 and 0048-0056); (d3) changing the reframing packet into optical signals having various wavelengths (paragraphs 0044 and 0045); (d4) demultiplexing the optical signals having various wavelengths so as to select only the optical signals having admitted wavelengths (fig. 1 and paragraph 0057); (d5) filtering the demultiplexed optical signals so as to adjust the spectral width of the optical signals to ensure a sufficient transmission distance (paragraphs 0070 and 0071); (d6) passing the multicast-objected wavelength in the filtered optical signals and blocking remaining optical signals (paragraphs 0057, 0064, 0065, and 0070); and (d7) multiplexing and amplifying the multicast-objected signal so as to transmit the signal to the backbone network (fig. 1 and paragraphs 0060 and 0072).

Double Patenting

7. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The

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filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.


8. Applicant is advised that should claim 1 be found allowable, claim 3 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Conclusion

9. Any inquiry concerning this communication from the examiner should be directed to N. Curs whose telephone number is (571) 272-3028. The examiner can normally be reached on M-F (from 9 AM to 5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached at (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (800) 786-9199.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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